



An
Bord
Pleanála

Inspector's Report PL03 248573.

Development	Change of use of from 50 bedroom hotel to eighteen apartments, (11 x 2 bed and 7 x 3 bed units), adjustments to elevations, new access stairs, lift and external access way with restaurants and bars in reduced ground floor area. Interpretative centre for Fishing Industry and, Interactive Museum and Gallery and ground floor. and associated works and renovations.
Location	Ocean Cove Hotel, Kilkee, Co. Clare.
Planning Authority	Clare County Council.
P. A. Reg. Ref.	P17/165
Applicant	GFT Investments
Type of Application	Permission
Decision	Refuse Permission.
First Party Appellant.	GFT Investments
Observer Parties	(1) John Williams (2) Kilkee Chamber of Commerce.
Date of Inspection	12 th September, 2017.
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The site has a stated area of 0.43 hectares and is that of the former Ocean Cove Hotel which has been unoccupied for several years. It was operated as a fifty-bedroom hotel with bar, reception restaurant, gym, residents lounge with on-site parking to the front and to the rear. The hotel overlooks Moore Bay and is surrounded by holiday home development, some of which was constructed in conjunction with the hotel and houses which are occupied by permanent residents.
- 1.2. "Kilkee Waterworld", a leisure and recreational facility is located to the south east, also overlooking Moore Bay. Most of the surrounding development is in houses and apartments, a large proportion of which appeared to be unoccupied at the time of inspection. Kilkee Golf Club is located a short distance to the west and north west.

2.0 The Proposed Development

- 2.1. The application lodged with the planning authority on 6th June, 2016 indicates proposals for permission for:
 - change of use and conversion of the existing hotel building into eighteen apartments comprising eleven, two bed and seven, three bed apartments.
 - installation of a new lift and external staircase, installation of balconies, alterations to the elevations, parking for the apartments in the existing surface carpark at the front and rear of the building,
 - bin storage in the rear yard area and all associated site development works.
 - Demolish the ground floor single storey restaurant and lounge space, the water tank area, staff facilities, bottle store and substation at the rear and to increase the number of ground floor windows and doors to facilitate the proposed development.

3.0 Planning Authority Decision

Decision

- 3.1. By order dated, 28th April, 2017, the planning authority decided to refuse permission on the basis of the reasoning reproduced below:

“The subject site which provides for an existing hotel and associated uses, is located within the settlement boundary of Kilkee, and is located on lands zoned “Tourism” as identified in the Clare County Development Plan, 2017-2023. Objective CDP 9.5 (a) “Tourist Accommodation” and CDP 9.25 (d) Tourism in West Clare seek to facilitate access to appropriate accommodation and also to promote encourage and facilitate the provision and expansion of B&B, guesthouses and hotels throughout the County. Having regard to the role and function of Kilkee as a tourist and leisure base; the contribution of hotels and their associated amenities to a sustainable tourist product; and the existing high level of holidays home and apartments, the Planning Authority consider that the proposed development providing for the loss of a hotel use would negatively impact on the vibrancy, balance and sustainability of the existing tourist service based in Kilkee and the balance of accommodation offerings available in Kilkee.

The proposed development would set an undesirable precedent for other such developments the area and would materially contravene County Development Plan Objectives CDP9.5 (a) and CDP 9.25 (d) and would seriously injure the amenities of the area.”

Planning Authority Reports

Planner’s Report

- 3.2. The planning officer concluded that the proposed development is in material contravention of the development plan policy objectives specified in the reason for the decision to refuse permission having regard to:
- the nature of the proposed residential accommodation – (short term letting or permanent places of residence);

- declining economic benefit to the town from tourism,
- avoidance of erosion of the quantity and mix short term accommodation supply with reference to, "*Towards a Better Kilkee*".(see para 5.7. below),
- desirability to improve and expand hotel accommodation and,
- the identification of the site as a 'Priority Opportunity Site' with potential for tourism and the community in the economic development strategy.

Outstanding issues, on which further information was considered necessary by the planning officer related to the type of residential accommodation proposed and escape in case of fire through an inaccessible rear yard.

Other Technical Reports

3.3. No objections are indicated in internal technical reports.

Third Party Observations

3.4. Mr John Williams of Erin Street and the Kilkee Chamber of Commerce submitted observations. (Both parties also lodged observer submissions on the Appeal in which the issues of concern raised are similar. (Para 6.4 below refers).

Loop Head Tourism in its observer submission notes the identification of the Ocean Cove site as a 'prime opportunity site' and indicates objection to the proposed development on account of the role of Kilkee in the wider area and, due to concern about inhibition of promotion of tourism potential due to lack of hotel facilities.

4.0 Planning History

4.1. According to the planning officer's report the site has an extensive planning history. The following details of planning history relate to the existing development:

P. A. Reg. Ref. 97-1215: Permission was granted for demolition of an existing multi storey hotel and construction of the existing hotel with public bar, restaurant, shop, gym and function room.

P. A. Reg. Ref. 99-633: Permission was granted for retention of revisions to the prior permitted development including omission of a nightclub/function

room and revisions to a ground floor layout. (P. A. Reg. Ref. 97-1215, details of which are above refers.).

P. A. Reg. Ref.16 P-585: Permission for change of use to an apart hotel with eight to bed units and four three bed units incorporating an access staircase to the restaurants and bars at ground floor level, for an interpretive centre for the fishing industry's interactive museum and gallery and, associated works was refused for two reasons.

- The first reason is in the basis of material contravention of Objective 12.2 (d), 'Tourism Infrastructure' and, CDP 12.4 (c) 'Tourism accommodation' in the Clare County Development Plan, 2011-2017 having regard to the loss of the hotel use and the function of the town as a tourism and leisure base and, undesirable precedent having regard to the location in lands zoned for Tourism in the West Clare Local Area Plan 2012-2018.
- The second reason is on grounds of piecemeal and disorderly development with negative impact on the amenities of the area and, inhibition of development potential owing to lack of proposals for progression of the restaurant and bar areas and the new interpretative centre.

5.0 Policy Context

5.1. Development Plan.

The operative development plan is the Clare County Development Plan, 2017-2023.

- Kilkee is categorised as a "key small town" in the settlement hierarchy. It is an objective of the Development Plan:

"To ensure that the small towns throughout the county continue to act as important local service centres that maintain sustainable communities, help to ensure a good quality environment, provide public transport to the main centres, ensuring a high quality of life for those who live in the vicinity".
(Objective CDP 3.4 refers)

- 5.2. The site location is subject to the zoning objective: "Tourism". A Tourism Complex is normally acceptable in Principle. Residential Institutions and Single dwelling units for permanent occupation are Open to Consideration. Single dwelling units for short term accommodation are not normally acceptable
- 5.3. Policy CDP 9.5 provides for the promotion, encouragement, and facilitation of provision for new visitor accommodation with expansion and upgrade of existing hotels and other holiday accommodation and, redevelopment of brownfield sites.
- 5.4. Policy CDP 9.25 provides for encouragement, promotion and enhancement of opportunities for products and destinations in West Clare.
- 5.5. The Ocean Cove hotel site is identified as an 'Opportunity Site' with priority for redevelopment because it is particularly suitable for access to marine activities and traffic and, the town needs additional hotel accommodation. The visually prominent location and existing dilapidated condition are noted.
- 5.6. There are multiple and broad ranging policies and objectives relating to housing supply, local economic development, urban renewal, tourism infrastructure development, especially holiday accommodation and tourism product development throughout the development plan's written statement, inclusive of Volume 3.
- "Towards a Better Kilkee",
- 5.7. "*Towards a Better Kilkee*", was issued by the County Council in 2016. It contains an Economic Development Strategy and A Town Improvement Plan. The county development plan is the parent document for this strategy. (section 19.2.e refers.)
- The site location lies within the area of the East end and Doonbeg Approach (Area 3) which outside the Town Centre on the Physical Context Map.
 - The site is identified as a 'Priority Opportunity Site' (POS 9) on the basis of a similar rationale in objective POS 9 in the county development plan. It is identified as in commercial use. Similar policy objectives for hotel accommodation provision and improvements to supplement existing alternative visitor accommodation and prevent erosion of short term accommodation are set out in section 2.2.4.

6.0 The Appeal

6.1. A first party appeal was received from Tom Bamford Planning on, 25th May, 2017 which includes a description of the planning context and background and planning policy, updated plans and a plan showing the locations of hotels in the town.

According to the appeal:

- The planning authority disregarded the policy that apartment development for permanent residence is 'open for consideration', even though there is oversupply of holiday homes in Kilkee. It is reasonable to provide apartments on the site as they are "open to consideration" under the zoning objective. Reference is made to the cores strategy and settlement hierarchy and housing policies of the CDP (Chapters 2, 3 and 4) and tourism and urban renewal. (Chapters 9 and 16)
- It is a priority for the site to be redeveloped, owing to the designation of the site as an Opportunity Site (where the vacant site levy can apply) References are also made to Volume 3 (d), West Clare Municipal District Area and to several extracts from it on Kilkee. References are also made to "*Towards a better Kilkee – A Town Improvement and Economic Development Strategy 2014-2024*" which includes a policy for partnership with local stakeholders in developing opportunity sites, Town and Village Renewal Scheme, 2016 in which €95,000 is allocated to Kilkee and, the Action Plan for Rural Development (Jan 2017.) in which residential occupancy is encouraged in village and town centres.
- There is no viable future use for the building as a hotel. The tourist season is short and there is no evidence that there is a demand for a hotel business. The building has fallen into disrepair in the six years since the hotel ceased trading. The project architect estimates a cost of €2 million for reinstatement as a hotel. The planning authority was also not satisfied with the previous proposal for a reduce number of bedrooms in an aparthotel more amenable to short stay family groups.
- The proposed development has no potential for precedent. The building is dilapidated, closed as a hotel for six years, and the use is abandoned, is

outside the town centre, is not part of integrated tourism product and, renovation costs are substantial. Other hotels, (a description and location map is provided) are in business, are actively marketed as hotels in turn key condition and are viable or in reasonable condition and potentially viable.

- The apartments would be used for permanent residential accommodation, with a management company in place and this can be offered on the open market. It would be suitable for older people trading down or social rented accommodation. The planning authority assessment is unbalanced. It dismissed rather than consider the proposed use as permanent accommodation which is encouraged in the development plan. (Extracts from strategic settlement and housing and sustainable regeneration policies and objectives in Chapter 4 and Volume 3 of the CDP are reproduced in full.)
- The town lacks a permanent population which affects the sustainability of business. Depopulation rather than lack of hotel bed spaces is the problem. In the off season the town can be described as a ghost town the short tourism season and depopulation but the population rises to 15,000 in the tourist season due to high numbers of holiday homes.
- The re-use a permanent residential accommodation helps to address the depopulation problem whereas refusal of permission risks further dilapidation and decay. The site is on land for which the Vacant Site Levy can be applied (Vol. 3, CDP, section 16.8) and there are also objectives for opportunity sites in *Towards a Better Kilkee*, extracts from which are also reproduced. A priority is to seek alternative use for the building.
- The proposed development complies with the standards for apartments in, *“Sustainable Urban Housing Design Standards for New Apartments, 2015*, including storage space and waste facilities.
- The proposed development complies with the “Tourism” zone objectives of the development plan and is not in contravention of Policies 9.5 for promotion of visitor accommodation and expansion and upgrade of existing hotels and 9.25 (d) promotion of the Loop Head Peninsula as a tourist destination. These objectives have broad meanings. The reuse of building serves the permanent residential accommodation needs of the town, does not diminish

the tourism zone which continues to facilitate tourist accommodation and adjoins the town centre where mixed residential uses are encouraged. It can benefit older people's need and is critical to the towns sustainable future.

- There are conflicting objectives in the CDP in that it encourages both continuation of use as a hotel and, residential accommodation for older people in the town. The pattern is a mix of permanent and potential future residential development to service the permanent population on LDR zoned lands.

Planning Authority Response

6.2. There is no submission from the planning authority on file.

Observations

6.3. There are submissions from two parties: (1) John Williams of Erin Street, Kilkee and,(2) Kilkee Chamber of Commerce. The issues of concern and contentions as to material contravention of development plan policies and objectives are similar and a brief outline follows:

- The existing self-contained units according to condition No 4 of the grant of permission for the existing hotel under, P. A. Reg. Ref. P97.1217 were predicated on the operation of the hotel. It is likely that the proposed apartments would be bought as holiday homes and they will not help to rejuvenate the town, as contended in the marketing literature. There is no shortage of properties for sale in the town and, according to the census it has the highest vacancy rate.
- A fifty-bedroom hotel will be lost to a town in which there is a shortage of short term accommodation. This shortage is referred to in the development plan. Bus tours are prevented from taking overnight stays in Kilkee because of lack of suitable accommodation and visitors are day trippers or holiday home owners. The site was an opportunity site and the hotel is an ideal seafront facility. The claims in the appeal about the tourism industry are rejected. The

hotel was successfully run. It was part of the Lynch Group of fourteen hotels which went into receivership.

- Three hotels in the town developed under the Seaside Renewal Scheme operated successfully until the mandatory period of operation ran out. It then deteriorated and were liquidated. The only existing hotel accommodation is the twenty bedroom Stella Maris hotel. Its owners were unsuccessful in purchasing the building. The contention by the applicant that there is no prospect of a viable return on a hotel business and that it can only operate during a four-month season is rejected. The town is on the Wild Atlantic Way. Events such as the Hells of West Triathlon will transfer to other locations because of the lack of accommodation in West Clare. The hotel industry also creates local employment. The hotel is strategic tourism infrastructure in the Loop Head peninsula, recognised as a priority opportunity site.
- The grant of permission for the 29 holiday homes and sixty apartments in combination with the hotel (in 1997) was conditioned whereby the hotel was to be built and made operational first. P. A. Reg. Ref.92-1215 refers.)
- The town has had significant population decline. There are high vacancy rates and there is an oversupply of residential accommodation according to DAFT and Census data. Houses sold are used as second homes and not for permanent residence. There is a need for and an interest in adding to the existing two hundred rooms in the town. There is capacity for 2000 in Doolin which has a year-round season. A hotel would reduce local unemployment which is 28 per cent.
- The proposed change of use would set undesirable precedent for similar new use at another unused hotel in the town.
- A fundamental requirement for a vibrant town and tourism sector is serviced tourist accommodation It is requested that the decision to refuse permission be upheld so that the developer is forced to reconsider the proposals.

7.0 Assessment

7.1. The main issues central to the determination of a decision and considered below are that of:

- Nature of permitted and proposed change of use and strategic and local policy objectives and,
- Potential for precedent.

In addition, there are some brief comments on the proposed alterations to the existing building to facilitate the development, and a final subsection on Appropriate Assessment below.

Nature of permitted and proposed change of use and strategic and local policy objectives.

7.2. Kilkee is a coastal town at a peripheral location in West Clare and it is categorised as a small town in the settlement strategy within the Clare County Development Plan 2017-2023. As has been mentioned in the application and the appeal submissions, there has been significant population decline according to census data provided in the Clare County Development Plan, 2017-2023.

7.3. The position of the planning authority is that the proposed change of use is not to the benefit of Kilkee and, is in contravention of strategic and local development objectives for Kilkee and for the site location. A clearly understandable rationale for these policies and objectives and, the consequent decision to refuse permission is that the proposed development undermines rather than facilitates tourism and tourism infrastructure, by replacement of tourist accommodation and associated facilities. The availability of such facilities is functional to the encouragement and support for enhancement of the local economy which, in Kilkee, is primarily dependant on the tourism and leisure sector.

7.4. The arguments of the observer parties are persuasive and are supported. Their case is: (a) that the existing hotel could address the sparsity of hotel accommodation suitable for group tours and for large events due, not only to the lack of such facilities in the town but also over a considerable distance along the Atlantic Way and, (b) that loss of existing hotel facilities which could be reinstated is at the opportunity cost of use of facilities at locations specifically zoned for Tourism for the benefit of the local

economy and the town and supplemented by the corresponding Policy Objectives 9.5 and 9.25 of the Clare County Development Plan 2017-2023 development plan.

- 7.5. The closure of the former hotel occurred in conjunction with the closure of all fourteen hotels in the Lynch Hotel group which went in to liquidation. The argument in the appeal is that investment in, and, reinstatement of the hotel use and leisure use is deemed to be an unrealistic and unviable option thus justifying flexibility with the application of the zoning and specific objectives to facilitate the proposed development. While understandable, it is not fully accepted that all scope and potential for reinstatement the hotel use and its viable operation has been completely exhausted. There is no evidence based argument to demonstrate that the option for reinstatement of hotel and associated uses should be eliminated by way of a professionally prepared feasibility study of similar investigative studies having regard to the potential market and the statutory and other associated policies and objectives for tourism and leisure and the regeneration of the local economy.
- 7.6. The inspection of the site and the town took place during business hours on a week day in mid-September, which would be definable as the shoulder season for seasonal tourism. Both the Kilkee World facility and local golf club were closed, a large percentage of the houses and apartments in the vicinity, (which is outside the area designated as town centre and in the area of the East end and Doonbeg Approach in "*Towards a Better Kilkee*") appeared to be unoccupied and to be 'second' or 'holiday' homes rather than permanent places of residence. Parking on street, in communal car parks and in front driveways were substantially unoccupied and there was minimal traffic or pedestrian circulation in the area.
- 7.7. Notwithstanding the vulnerabilities attributable to the short period for seasonal tourism, reinstatement of this designated "prime opportunity site" in hotel and related uses facilitating the tourism and leisure sector and the local economy should not be abandoned in the absence of strategic, zoning and associated specific tourism policies and objectives that accommodate alternative land use not directly related to tourism. These zoning and specific objectives applicable to the site location are considered reasonable. Therefore, the planning authority decision to refuse permission the proposed change of use, is also considered reasonable and is supported. However, the argument as continuation of the negative impact

attributable should the existing buildings remain unoccupied and there is no change to the current scenario is appreciated.

- 7.8. While it is agreed with the appellant that “residential use” is “open for consideration” within areas subject to the development plan’s “Tourism” zoning objective it is not accepted that it can be implied that generic residential use or a specific residential use is acceptable in principle. Instead, careful consideration of proposals for residential use having regard to the project’s compatibility with the zoning and specific objectives, especially the scope to encourage and enhance the achievement of those objectives is essential.
- 7.9. Significant provision is made within the core strategy within the recently adopted Clare County Development Plan 2017-2013 for increases in the population and the number of households on suitably zoned lands within the life time of the plan. (Table 2.5, Chapter 2 refers.) An addition of another fourteen dwelling units on lands in an area that is not zoned for residential development and not accounted for in the core strategy would be significant in Kilkee, especially given the existing scenario of oversupply in the town.
- 7.10. The applicant in the appeal has sought to demonstrate that it is not intended that the proposed development be used for short term holiday letting, which is not permissible in the zoning matrix for lands zoned for, “Tourism” use. Given the oversupply of residential accommodation, both for permanent and holiday habitation in the town, there is no doubt that the original proposal for a fourteen-unit apartment development in replacement of the hotel use would not be compatible with, and could not contribute positively to the achievement of the strategic policy and zoning objectives. The original proposal in the application potentially exacerbates the existing oversupply of residential accommodation irrespective of the nature of occupancy envisaged.
- 7.11. The applicant in the appeal has sought to address this concern with more specific proposals whereby it is intended to target the proposed apartments for occupation by older people as permanent places of residence. However, the submission is deficient as to how it is intended that the occupancy by older persons can be differentiated and provided for specifically and successfully implemented. In addition, there are no details as to a potential demand for permanent occupation of

apartments by older citizens other than a suggestion that people resident in rural areas may opt to relocate to the proposed development.

- 7.12. It can be concluded that the case in the appeal for positive consideration of the proposed development, having regard to development plan policies, and due to potential demand from older citizens is aspirational and is not persuasive. It is not demonstrated that specific nature of the proposed residential use is such that it would: not exacerbate the existing problem of oversupply of residential accommodation; is cohesive and functional to the achievement of the development objectives for lands subject to the ‘Tourism’ zoning objectives; is constructive and viable and, potentially enhances the local economy and vitality of Kilkee. Residential use is “open for consideration” rather than acceptable in principle necessitating significant discretionary case specific consideration. It is conclusively considered that the proposed change of use to residential use would not be compatible with viable commercial use in accordance with the zoning objective, would result in loss of existing tourism facilities and services and would exacerbate the existing problem of oversupply of residential development in Kilkee. As a result, the proposed development would be contrary to the achievement of the strategic, local specific and zoning objectives for the area set out in the development plan and would be contrary to the proper planning and sustainable development of the Kilkee area.

Potential for Precedent.

- 7.13. The planning indicated potential for undesirable precedent in the reason for decision for refusal of permission. It is of note that the Kilkee Bay Hotel, which is located just outside the settlement boundary and Town Centre, on the R460 (Kilrush Road) is also non-operational and unoccupied. It is not entirely comparable to the proposed development in that the site location is not within the tourism and recreational area of the town which directly overlooks Moore Bay and the site is subject to the commercial zoning objective. Nevertheless, it is considered that the argument as to potential for precedent for residential development within area subject to the commercial zoning objective, and which may be contrary to the interests of proper planning and sustainable development is reasonable.

Alterations and additions.

- 7.14. The proposed development includes proposals for some minor alterations to the

facades including, fenestration alterations, installation of balconies and proposals for installation of a lift, access stairs and walkway at the rear elevation and rear yard. There is no objection in principle to the proposed changes, subject to conditions with standard requirements on matters of detail.

Appropriate Assessment.

- 7.15. The site location is immediately to the north of the Kilkee Reefs SAC (002564) the qualifying interests for which are: Large shallow inlets and bays, [1160] reefs [1170] and submerged or partially submerged sea caves. [8330]
- 7.16. The potential source pathway receptor linkage is by means of is charged waters from the public sewer which would receive effluent from the proposed development. In the event of contamination of waters emanating from the development, there would be potential for pollution of receiving waters which could affect the SAC. Having regard to the pre-existing development and the prior, hotel, bar and restaurant use on the serviced site within the town's settlement boundary and, to the nature and limited intensity of the proposed change of use to fourteen apartments which would be serviced by the existing surface and foul water drainage system and which involves minimal demolition and construction works it is considered that the proposed development would not be likely to have significant effect, individually, or, in combination with other plans or projects on the Kilkee Reefs SAC or any other European site.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld and, that permission be refused on the basis of the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the zoning objective, "Tourism" for the site on which the existing hotel complex is located, according to the Clare County Development Plan, 2017-2023, to the role of Kilkee as a tourist and leisure base, the contribution of hotels and associated amenities to a sustainable tourist product, and to the existing high level of

residential development in the town, it is considered that the proposed change of use to a eighteen unit apartment development resulting in loss of hotel development, which is sustainable tourism infrastructure facilitating the role of Kilkee as a tourism and leisure base, would be in material contravention of Policy Objective 9.5 (a) and 9.25 (d) of the said development plan which provide for the facilitation of access to appropriate tourism accommodation and to facilitate the provision and expansion of B and B accommodation, guesthouses and hotels in West Clare. The proposed development would set undesirable precedent for further similar development and would therefore be contrary to the proper planning and development of the area.

Jane Dennehy
Senior Planning Inspector
15th September, 2017